

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

- - - - -X
UNITED STATES OF AMERICA 18-CR-6094(G)

vs.
XAVIER TORRES, Rochester, New York
Defendant. October 28, 2021
8:30 a.m.
- - - - -X

VOLUME 8

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE FRANK P. GERACI, JR.
UNITED STATES DISTRICT JUDGE

JAMES P. KENNEDY, JR., ESQ.
United States Attorney
BY: ROBERT A. MARANGOLA, ESQ.
CASSIE M. KOCHER, ESQ.
Assistant United States Attorneys
500 Federal Building
Rochester, New York 14614
Appearing on behalf of the United States

MAURICE J. VERRILLO, ESQ.
3300 Monroe Avenue
Suite 301
Rochester, New York 14618
Appearing on behalf of the Defendant

ALSO PRESENT: Carlos Aguirre, Spanish Interpreter

COURT REPORTER: Christi A. Macri, FAPR-RMR-CRR-CSR(NY/CA)
Christimacri50@gmail.com
Kenneth B. Keating Federal Building
100 State Street, Room 2640
Rochester, New York 14614

I N D E X

WITNESS FOR THE GOVERNMENT

Axel Aponte Camacho

Direct examination by Mr. Marangola

Cross-examination by Mr. Verrillo

Page 713

Page 774

EXHIBIT

RECEIVED

Government 237 754

Government 18 755

Government 238-244 764

Government 250 771

Government 253-254 771

P R O C E E D I N G S

* * *

(WHEREUPON, the defendant is present; the jury is present).

THE COURT: Good morning.

MR. MARANGOLA: Good morning, Judge.

THE COURT: Good morning, members of the jury. Ready to proceed?

MR. MARANGOLA: Yes, Your Honor. Government recalls Axel Aponte Camacho. I believe the marshals are bringing him.

THE COURT: Mr. Aponte Camacho, I remind you you remain under oath.

THE WITNESS: Okay.

THE COURT: Thank you. You may proceed.

MR. MARANGOLA: Thank you, Your Honor.

BY MR. MARANGOLA:

Q. Good morning, Mr. Aponte Camacho.

A. Good morning.

Q. At the end of our session yesterday you had discussed an incident where you learned about Yankee being arrested and there had been a conversation between Javi and Robert for his attorney. Do you recall that?

A. Yes.

Q. And I think yesterday you said something that between -- there was a conversation between Robert and Javi regarding

1 money for the attorney for Gordo. You mentioned that
2 nickname?

3 A. Yes.

4 Q. Who did Gordo refer to?

5 A. To Yankee.

6 Q. So that was another nickname for Yankee?

7 A. Yes.

8 Q. All right. For the record can you show us so we're clear
9 who you're referring to as Gordo and Yankee on Government's 1?
10 All right. And yesterday you described the first time that you
11 went to an apartment to work the table. Do you recall that?

12 A. Yes.

13 Q. And you said when you went into that apartment, I think
14 you referred to it as a hospital apartment?

15 A. Yes.

16 Q. That eventually Javi was there and Robert was there, you,
17 Obed and Pistolita; is that right?

18 A. Yes.

19 Q. Before that day had you met Javi or Robert?

20 A. Yes.

21 Q. Can you tell the jury when and under what circumstances
22 you had met Javi and Robert before the day that you worked the
23 table the first time?

24 A. One time that I went to cut Robert's hair where he used to
25 live on street named Holly. That's like behind Columbia, west

1 side. I cut Robert's hair there and Javier and Javier's kids
2 and I did his wife's eyebrows.

3 Q. So you met Robert from cutting his hair before?

4 A. If I saw him?

5 Q. No, before the first time you worked the table you had
6 known Robert because you cut his hair?

7 A. Yes.

8 Q. Had you met Javi before that day? The first time you
9 worked the table?

10 A. Yes.

11 Q. When had you met Javi?

12 A. When I cut Robert's hair at Robert's house, Javier also
13 went there and I cut his hair and his kids.

14 Q. Okay. So you knew both Javi and Robert from cutting hair
15 before the first time that you worked the table?

16 A. Yes.

17 Q. And you said that you had known Obed, who was also there,
18 since you were in grade school in Puerto Rico?

19 A. Yes.

20 Q. How about the defendant Pistolita? Did you know him
21 before that first day when he was there working the table?

22 A. I had seen him and I knew what his name was, but never
23 gotten introduced before.

24 Q. All right. When you had seen him what had you seen him
25 doing and under what circumstances had you seen him before the

1 first time you worked the table?

2 A. Selling on Burbank.

3 Q. Selling drugs on Burbank Street?

4 A. Yes.

5 Q. Okay. All right. If you can clear your marks there. Maybe
6 Ms. Rand could. Thank you.

7 You testified about Yankee being arrested. I think
8 earlier you mentioned other people had been arrested. Do you
9 recall any other members of this operation getting arrested
10 during the time that you worked for Javi's drug selling
11 operation?

12 A. Yes.

13 Q. Did there come a time when you learned about the defendant
14 Pistolita being arrested?

15 A. Yes.

16 Q. Do you recall approximately when that was?

17 A. Like February 2016.

18 Q. All right. Do you recall what happened?

19 A. We were at Obed's apartment on Liberty Pole.

20 Q. All right. If we could show you Government's 51. Is that
21 the apartment building that you're referring to?

22 A. Yes.

23 Q. So who had apartments in that apartment building that you
24 were aware?

25 A. Leitscha and Obed.

1 Q. On this occasion in February of 2016 you were in Obed's
2 apartment?

3 A. Yes.

4 Q. Can you tell us what you remember?

5 A. We got up in the morning, Pistolita had to work that
6 morning. He went out on Obed's car so that he could go to
7 Burbank to sell. A little after he left somebody called Obed
8 and they told him that Pistolita had been arrested on
9 Burbank --

10 **MR. VERRILLO:** Objection.

11 **THE WITNESS:** -- with drugs.

12 **THE COURT:** Hang on, there was an objection.
13 Sustain the last sentence of that answer.

14 **BY MR. MARANGOLA:**

15 Q. All right. On this occasion you had -- had you spent the
16 night at Obed's apartment?

17 A. Yes.

18 Q. Who had spent the night there besides you?

19 A. Me, Obed and Pistolita.

20 Q. And in the morning Pistolita left to go sell on Burbank?

21 A. Yes, yes.

22 Q. And what car did he take?

23 A. The red Honda that Obed had.

24 Q. If we could show you Government's 175. Do you see the red
25 Honda in Government's 175?

1 A. Yes.

2 Q. Is that the same or different vehicle than Pistolita took
3 that morning after leaving Obed's apartment?

4 A. The same one.

5 Q. And he went to go to work selling on Burbank that morning?

6 A. Yes.

7 Q. And then you said shortly after that Obed received a call?

8 A. Yes.

9 Q. Did Obed talk to you after he received that call?

10 A. Yes.

11 Q. What did Obed say to you?

12 A. That Pistolita had gotten caught on Burbank selling.

13 Q. Did Obed tell you anything else?

14 A. No.

15 Q. All right. Do you know what happened to Pistolita after
16 that morning?

17 A. No, I mean, I knew he was arrested.

18 Q. Do you know if he went to jail?

19 A. Yes, Obed said that he had been arrested.

20 Q. All right. Did there come a time after that day that you
21 spoke to Pistolita about what happened?

22 A. Yes.

23 Q. Can you tell the jury about that?

24 A. He went out -- I don't know how many days he was in jail,
25 but I saw him like three days later after he was arrested and

1 he said that it was weird that he had just gotten out of the
2 apartment and he had gotten caught with drugs, like he wanted
3 to like insinuate like if somebody had set him up.

4 And he said that when the cops arrested him, that
5 the first cop check his waist and he had the package like
6 inside the pants like in the front side of the boxer, and the
7 first cop checked him and didn't find anything; and then the
8 second cop checked him and found something on him.

9 And he already had handcuffs in the back and he
10 started running onto Mazda. The cops went after him, running
11 after him from Mazda and he said that he was running so hard
12 and since his hands were behind him he lost his balance and
13 fell.

14 That's when the cops got him and the cop said that
15 he never saw anybody who ran so hard and fast with the hands
16 handcuffed behind their back.

17 Q. All right. Did there come a time after -- some point after
18 Pistolita's arrest that your involvement changed in this
19 organization from working the table only?

20 A. Can you repeat the question?

21 Q. Sure. Did there come a time when your involvement in
22 Javi's drug operation changed from working the table?

23 A. Yes.

24 Q. Can you describe about when it changed and how it changed?

25 A. Like the beginning of 2016, like spring that's when I

1 started to sell in the streets and in the house.

2 Q. All right. So in the spring of '16 you began selling in
3 the streets and the house?

4 A. Yes.

5 Q. When you first began selling where did you begin selling?

6 A. On LaForce, that street called LaForce.

7 Q. All right. So you didn't start selling on Burbank?

8 A. No.

9 Q. All right. I'd like to show you Government's 48 in
10 evidence. Do you recognize what's shown in Government's 48?

11 A. Yes.

12 Q. What do you recognize in Government's 48?

13 A. The house where I used to sell on LaForce.

14 Q. Can you tell the jury how did you become involved in
15 selling drugs on LaForce as part of your involvement with
16 Javi's organization?

17 A. Javi sent us there because Burbank was hot, because
18 Pistolita had been arrested, Yankee had been arrested on
19 Burbank, Naldi had also been arrested on Burbank and they had
20 killed somebody on Leo, and also on Burbank they had killed
21 somebody.

22 Q. All right. When you say "hot," tell us what you mean by
23 the term hot when you say Burbank was too hot?

24 A. That the cops, they were going in and out too much
25 checking us.

1 Q. All right. So Javi moved things to LaForce for a period
2 of time?

3 A. Yes.

4 Q. All right. Tell us how you began and how you were involved
5 in the selling of drugs on LaForce Street for Javi.

6 A. Inside the house.

7 Q. Inside which house on Government's 48? You circled the
8 house in the center of the photograph; is that right?

9 A. Yes.

10 Q. And that's 16 LaForce; is that correct?

11 A. Yes.

12 Q. Who were you selling with when you first began selling at
13 16 LaForce for Javi?

14 A. With Obed, with Victor, with Gargola and Tapon.

15 Q. All right. If we could clear your marks on Government's
16 48. And go -- show you Government's Exhibit 1. Can you touch
17 the photographs of the individuals that you were involved in
18 selling for Javi at 16 LaForce? All right, and you've touched
19 four individual pictures in the third row; is that correct?

20 A. Yes.

21 Q. All right. Starting from the left, the first photograph
22 you touched is who?

23 A. Tapon.

24 Q. First on the left.

25 A. Oh, Obed.

1 Q. And who is next to Obed?

2 A. Me.

3 Q. And who is the next photograph that you touched?

4 A. Victor.

5 Q. And the last one on that row that you touched?

6 A. Tapon.

7 Q. All right. What were these individuals' roles in the drug
8 selling on LaForce Street?

9 A. In the drug sale completely or --

10 Q. What was Tapon's role in the sale of drugs at 16 LaForce?

11 A. He was a runner and he would also sell.

12 Q. All right. When you say "runner," can you describe for the
13 jury what you mean by runner?

14 A. Whenever we were out of drugs, he will bring us more; and
15 he would also store it at the house.

16 Q. All right. And who would collect the money from the
17 sellers?

18 A. He also collected it or Yankee collected it, but he didn't
19 sell.

20 Q. Was that also the job with the runner in addition to
21 bringing more drugs to collecting the money from the sellers?

22 A. Yes.

23 Q. Did you also sell from the street or in the area in front
24 of the house?

25 A. Yes.

1 Q. Can you tell us how that worked?

2 A. Because LaForce was getting really hot, the cops were
3 going in and out a lot, there were a lot of addicts going into
4 the streets to buy and so the cops already knew that drugs
5 were being sold from that house so they were always alert.

6 We decided to get out of the house and start
7 selling on the street. And when an addict will come around, a
8 customer, we would go and hold him up, ask him what he wanted,
9 and then the other one will go and look for whatever he
10 wanted.

11 Q. What were you selling on LaForce? What drugs?

12 A. Heroin, crack and cocaine.

13 Q. How long of a period of time would you sell on LaForce?

14 A. Like four or five months.

15 Q. All right. Four or five months. Each occasion when you
16 went to sell on LaForce, how many hours would you sell?

17 A. From 6 in the morning to 6 in the morning the next day.

18 Q. So 24-hour shift?

19 A. Yes.

20 Q. How much were you being paid?

21 A. \$1 for the heroin bags, and \$1 for the cocaine bag, and \$2
22 for the crack capsules.

23 Q. All right. During these months where you were selling in
24 the spring of 2016 on LaForce, what apartment was the
25 organization using to bag the drugs? Where would you go work

1 the table?

2 A. On Culver.

3 Q. If we could show you Government's 54. Ms. Rand, would you
4 mind clearing those marks. Thanks.

5 Do you recall during the time you were selling on
6 LaForce any of the stamps that were on the heroin bags that
7 were being sold by you and Obed and Victor and Tapon on
8 LaForce?

9 A. The blue magic.

10 Q. And was the stamp blue magic one that you remember using
11 at the Culver Road building?

12 A. Yes.

13 Q. If we could go back to 48, LaForce? What type of security
14 did you have while you were selling on LaForce?

15 A. We had the addicts who were the ones who kept an eye out;
16 and we had guns.

17 Q. All right. When you say addicts kept an eye out, can you
18 describe what you mean?

19 A. Like if the cops would come, they will go and let us know.

20 Q. All right. And then you said you had guns?

21 A. Yes.

22 Q. What kind of guns were -- did you have for security while
23 you were selling at LaForce?

24 A. We had Uzi, a small black Ruger, and a Glock 19.

25 Q. All right. At the time you were selling on LaForce you

1 were being paid \$1 a bag?

2 A. Yes.

3 Q. And were you also working the table at the Culver
4 building?

5 A. Yes. If I wasn't selling.

6 Q. Okay. So if you weren't -- obviously if you were selling
7 you were on LaForce, right?

8 A. Can you repeat it again?

9 Q. If you were selling you would be on LaForce?

10 A. Yes.

11 Q. If you weren't selling you would be working the table at
12 Culver?

13 A. Yes.

14 Q. Did you continue working at the barber shop?

15 A. Yes, but I left the barber shop like I think beginning of
16 summer of 2016. I'm not really sure exactly when I left.

17 Q. Why did you quit working at the barber shop in the summer
18 of '16 approximately?

19 A. Because I was making more money selling.

20 Q. Can you give the jury an idea of how much money you were
21 making on a good week selling drugs on LaForce and working the
22 table at the Culver Road building?

23 A. Maybe \$3,000, \$2,500.

24 Q. And that was cash?

25 A. Yes.

1 Q. What did you spend your money on?

2 A. Clothing, tennies.

3 Q. I'm sorry what was that last word?

4 A. Tennies, like shoes, shoes.

5 Q. Shoes, clothing and shoes?

6 A. Going to the club.

7 Q. Going to the club?

8 A. Did you -- did you put money in a savings account?

9 A. No.

10 Q. Did you buy a house?

11 A. No.

12 Q. Did you buy a car?

13 A. No.

14 Q. Did you own any assets?

15 A. No.

16 Q. All right. While -- when you and other members of this
17 operation discussed or conducted your drug business, can you
18 describe the way in which you spoke to each other?

19 A. When we -- you mean when we talk on the phone?

20 Q. Talk on the phone or in person.

21 A. Well, in person we could talk about drugs. But over the
22 phone we didn't mention anything specific about drugs.

23 Q. Why not?

24 A. Because if the cops had the phones tapped, then they were
25 going to know that we were talking about drugs.

1 Q. All right. Based on your participation in Javi's drug
2 operation between May of 2015 and December of 2016, are you
3 familiar with how members of the operation discussed drug
4 business over the telephone?

5 Are you familiar with how members of the operation
6 spoke about the drug business on the phone?

7 A. Yes.

8 Q. Are you familiar with words and phrased used by members of
9 this operation to conduct their business and avoid speaking
10 openly about drug business?

11 A. Can you repeat the last part that you ask?

12 Q. Yeah. Are you familiar with words or phrases that members
13 of the organization used to speak about drug business to avoid
14 being open?

15 A. Yes.

16 Q. All right. Did you yourself use some of those words while
17 you spoke to other members of the operation?

18 A. Yes.

19 Q. Can you tell the jury some of the codes that you would use
20 when you spoke to other members of the operation regarding
21 drug business?

22 A. When we needed heroin, we would say that we needed coffee.
23 And when we needed cocaine, we would say that we needed milk.
24 Or if it was crack, we would say that we needed hard or rock.
25 Or sometimes we would say for heroin *nene*, which is like a

1 baby boy. We said it in English, boy or girl, for the heroin
2 would be boy, and girl would be cocaine.

3 Q. All right. Can you explain to the jury how Javi's drug
4 operation utilized phones to conduct their business?

5 A. Well, you couldn't call anybody of your family from those
6 phones.

7 Q. Could or could not?

8 A. No, you could not. Or any girlfriend, nobody that wasn't
9 inside of the organization that would be called through those
10 phones because if the person -- if you called somebody like
11 your family member or somebody, and they had the phone number
12 in their name, then the cops were gonna have an idea who you
13 were.

14 Q. How would you get a phone as part of this organization?

15 A. If I had to sell today, the runner will give you the
16 phone.

17 Q. All right. Describe the phones that you would get while
18 you were working for the organization. The types of phones
19 you would use to conduct this drug business.

20 A. They were like flip phones.

21 Q. Did you have a name that you used to refer to the flip
22 phones that you used to conduct the drug business?

23 A. We will call them *maracas*.

24 Q. When you received one of these *maracas*, were there any
25 contacts in it?

1 A. Yes.

2 Q. Can you describe for the jury some of the contacts that
3 would be in one of these flip phones?

4 A. The runner contact and Javi's number, and in some of the
5 phones there were some clients' contacts who were constant who
6 would be a lot of quantity.

7 Q. So sometimes there were customer contact numbers in the
8 phones as well?

9 A. Yes.

10 Q. Was that for every customer?

11 A. No.

12 Q. What type of customer would get their number put in a
13 phone?

14 A. There were steady customers who always purchased there and
15 who would buy a lot of quantities.

16 Q. So regular customers that bought a lot of quantities?

17 A. Yes.

18 Q. Did everybody who worked for the organization get their
19 own *maraca*?

20 A. No.

21 Q. Who got their own *maraca*?

22 A. Javi had one; the runner always had one; and whoever was
23 gonna be selling will also get one.

24 Q. Did you have your own personal phone in addition to having
25 one of these *maracas* when you were working?

1 A. Yes.

2 Q. All right. How long would you have the *maraca*? Did you
3 have the same one -- let me withdraw that question.

4 Did you have the same *maraca* the entire time you
5 worked for Javi's organization?

6 A. No.

7 Q. Would they change or get rid of the phones?

8 A. Yes, sometimes he would throw away the phones and buy a
9 new one.

10 Q. All right. At some point you described that there was a
11 lot of addicts and customers on LaForce Street while -- after
12 you had been selling there for a period of time; is that
13 right?

14 A. Yes.

15 Q. As a result of that volume of drug selling, what happened
16 on LaForce Street?

17 A. It got hot, so the cops was always aware of that house --
18 the house where we sold.

19 Q. All right. And as a result of increased police activity or
20 that area getting hot, what did you or some of the other drug
21 sellers do?

22 A. We got out of the house and we would sell it on the
23 street.

24 Q. And how would the selling in the street happen when you
25 moved out into the street?

1 A. If a customer came, somebody who was going to buy, one of
2 us would go to him, we wouldn't let him get to the house. We
3 would ask him what he wanted and then the other person will
4 go, I will go to him and say look, he wants this or that, I
5 will take it, he will give me what the other one wanted and I
6 will give it to him.

7 But we didn't let him get to the house because the
8 cops already knew that the house, what we did there was to
9 sell.

10 Q. Before you were selling in the street were you keeping the
11 drugs in the house?

12 A. Yes.

13 Q. Once you started selling on the street where were you
14 keeping the drugs that you were selling?

15 A. We would keep them like around the edge of the house.

16 Q. When you say the "edge of the house," can you point on
17 Government's 48 the area that you're talking about?

18 A. Yes.

19 Q. All right. You've made a mark on the right side of 16
20 LaForce; is that right?

21 A. Yes.

22 Q. What would you do with the drugs in that area? How would
23 you conceal them or hide them?

24 A. We would lift the edge of the side of the house -- I don't
25 know how you call that.

1 Q. The siding?

2 A. Yes.

3 Q. What would you do with the siding?

4 A. We would lift it and put the drug in there.

5 Q. All right. And you did that to avoid getting arrested with
6 drugs I assume?

7 A. Yes, because since the cops already seen us so many times
8 there, they already knew we were the ones selling so we were
9 gonna be there, the cops would pull us over and get us with
10 the drugs on us.

11 Q. When you say pull you over, were you in the car or they
12 would just stop you in the street?

13 A. No, like to stop me in the street.

14 Q. All right. Now, you said you were never arrested selling
15 drugs while you were working for Javi's organization; is that
16 right?

17 A. Correct.

18 Q. What about Obed? Was he able to avoid being arrested?

19 A. He got arrested.

20 Q. And do you remember when that was about?

21 A. Like the summer -- I think like summer 2016.

22 Q. And was that while you and he had been selling on LaForce
23 Street?

24 A. I'm sorry, counsel, would you mind repeating that?

25 Q. Was that while you and Obed were selling on LaForce Street

1 that he got arrested?

2 A. Yes.

3 Q. Were you present on the day that Obed got arrested on
4 LaForce Street?

5 A. Yes.

6 Q. Can you describe what you remember happening that day?

7 A. Yes. The cop came in against traffic, Obed was walking
8 around -- next to Tapon's house. There was like an empty
9 field and there was a tree log falling.

10 I told Obed to run because I had seen him come out
11 of there and he said that he had nothing. He had saved the
12 material under the log.

13 Q. He had saved what?

14 A. Saved the material under the log.

15 Q. What material?

16 A. The drug.

17 Q. Okay. Obed had stashed the drugs in a log?

18 A. Yes.

19 Q. A tree or something?

20 A. Yes, a fallen tree.

21 Q. A fallen tree, all right. And what happened?

22 A. The cop asked him to stop and arrested him. He search
23 around the area and found the package that Obed had hidden.

24 Q. All right. And Obed was -- they found the drugs that Obed
25 had stashed?

1 A. Yes.

2 Q. And Obed was arrested and taken to jail that day?

3 A. Yes.

4 Q. All right.

5 **MR. MARANGOLA:** Your Honor, we previously offered
6 and the Court had received Government's 234 in evidence.

7 From the stipulation I'll read briefly from Court
8 Exhibit 1. Government Exhibit 234 was seized from 16 LaForce
9 on July 31st, 2016.

10 Government Exhibit 234 contains seven empty plastic
11 bags, three plastic vials with rock-like material containing
12 cocaine, and 36 plastic bags with white powder containing
13 cocaine.

14 The aggregate weight of the cocaine is
15 approximately 1.656 grams.

16 Government Exhibit 234 also contains a plastic pill
17 bottle with 77 glassine bags stamped blue magic with brown
18 powder containing heroin.

19 The aggregate weight of the heroin is approximately
20 4.259 grams.

21 Your Honor, if I could show the witness some of the
22 items from Government's 234 on the visualizer?

23 **THE COURT:** Yes.

24 **MR. MARANGOLA:** Thank you.

25 **BY MR. MARANGOLA:**

1 Q. I'm opening the pill bottle from Government's 234. Mr.
2 Aponte Camacho, can you see on your screen?

3 A. Yes.

4 Q. All right. Do you see any of the stamps that you placed on
5 bags of heroin during the time you were selling at LaForce?
6 Do you see any of those stamps on the items that I've placed
7 on the visualizer here from Government's 234?

8 A. Yes.

9 Q. And what's the stamp that you recognize?

10 A. Blue magic.

11 Q. All right. Mr. Aponte Camacho, after Obed was arrested
12 selling the blue magic heroin at LaForce Street, did Javi do
13 anything to help him?

14 A. Yes.

15 Q. What did he do?

16 A. He paid his bond and paid for part of the lawyer.

17 Q. And how do you know that?

18 A. Javi told me and Obed also told me.

19 Q. All right. Did you continue to sell at LaForce Street
20 after Obed was arrested with those blue magic bags in the
21 summer of 2016?

22 A. After he was arrested we move on to Burbank to sell on
23 Burbank, but somebody would stay on LaForce since all the
24 other customers already knew that that's where we were
25 selling, somebody would stay there and when they will come

1 will let them know we're on Burbank now.

2 Q. All right. So you moved from LaForce Street shown here in
3 Government's 48 over to Burbank?

4 A. Yes.

5 Q. Now, how long in total do you think you had been selling
6 on LaForce before things moved over to Burbank?

7 A. Like how long was I selling in total?

8 Q. On LaForce Street, yeah.

9 A. Like maybe some five months.

10 Q. Okay. And then who told you to move over to Burbank?

11 A. Javi.

12 Q. All right. If we could show you Government's Exhibit 35.
13 Do you recognize what's shown in Government's 35?

14 A. Yes.

15 Q. Is this an aerial view showing a number of streets in the
16 City of Rochester?

17 A. Yes.

18 Q. Does this show the area that you moved to selling shortly
19 after Obed's arrest in July of 2016?

20 A. Yes.

21 Q. Can you circle the area that you began to sell after
22 Obed's arrest at LaForce? All right, and for the record
23 you've made a long line almost along the entire street of
24 Burbank; is that correct?

25 A. Yes.

1 Q. All right. Do you know where Javi's house is on Burbank?

2 A. Yes.

3 Q. Which one is Javi's house? And you circled the house
4 marked No. 6?

5 A. Yes.

6 Q. All right. Can you describe the selling on Burbank after
7 you moved there from LaForce?

8 A. Well, mostly we were in the street, sometimes we will
9 stand on Norton and Clinton -- sorry, North Clinton and
10 Burbank on the corner or sometimes we would stand in front of
11 an abandoned house.

12 It was on the same side as Javi's house or
13 sometimes we would stand on another abandoned house that was
14 across from Javi's house from the apartment.

15 Q. Who were some of the individuals who were selling in the
16 street during that time on Burbank?

17 A. Me, Obed, Yankee, Victor, Tapon. Those are the ones I
18 remember for now.

19 Q. All right. Who were the -- who were the runners during
20 that period of time?

21 A. Yankee was a runner; and Tapon was a runner.

22 Q. All right. And so now this is in approximately the early
23 fall of 2016?

24 A. Yes.

25 Q. Did you ever sell at Javi's house that you circled here?

1 A. If I ever sold from his house, that's what you mean?

2 Q. Yeah.

3 A. No.

4 Q. All right. Did anyone ever sell at Javi's house?

5 A. Not that I know of.

6 Q. By the way, you were selling heroin, cocaine and crack for
7 Javi; is that right?

8 A. Yes.

9 Q. Did you use heroin or cocaine or crack?

10 A. No.

11 Q. All right. And once you were selling on Burbank, did you
12 also continue to work the table?

13 A. Yes.

14 Q. And what apartment was being used at that time?

15 A. The one on Culver.

16 Q. So you were still at the Culver building?

17 A. Yes.

18 Q. How often were you bagging at the Culver building during
19 this time, the end of summer, beginning of fall 2016?

20 A. Like two or three times a week.

21 Q. All right. During that time did you see the defendant
22 Pistolita either on Burbank or at the Culver Road building
23 working the table?

24 A. On Culver working the table.

25 Q. All right. Was the defendant there -- and this is just

1 during the fall of 2016 I'm asking -- was the defendant there
2 each one of the occasions that you bagged at the Culver Road
3 building?

4 A. No.

5 Q. All right. Did you discuss with Javi or anyone else in the
6 organization where the defendant was when he was not in
7 Rochester working the table?

8 A. Yes.

9 Q. Can you tell us what you were told by Javi or other
10 members of the organization about where Pistolita was?

11 A. Javi and Victor, they said that he was in Buffalo.

12 Q. All right. And so there were times he was in Buffalo and
13 then there were times that he was working the table on Culver
14 with you in Rochester?

15 A. Yes.

16 Q. Did there come a time when you stopped working for Javi?

17 A. Yes.

18 Q. Can you tell the jury about when that was?

19 A. Like I think end of October of 2016.

20 Q. All right. By the way, did Javi or Victor tell you what
21 Pistolita was doing in Buffalo when he wasn't in Rochester
22 working the table?

23 A. No.

24 Q. All right. So how did it come about that you stopped
25 working for Javi -- when did you say, October?

1 A. Yes, like at the end of October I think.

2 Q. All right. So at the end of October or so of '16, how did
3 you stop working for Javi?

4 A. Because he told my girlfriend that I was cheating on her
5 with another girl.

6 Q. And --

7 A. Then I decided to leave and stop working for him.

8 Q. I assume that got you in hot water with your girlfriend?

9 A. Yes.

10 Q. So did you tell Javi or anyone in the organization you
11 weren't going to work there any more?

12 A. Yes, to Tapon -- to Tapon, not Javi.

13 Q. What did you tell Tapon?

14 A. When that happened, that Javi told that to my girlfriend,
15 that was at night and the next day in the morning I was
16 supposed to be working on Burbank early and Tapon was going to
17 get me on the Burbank -- at the Culver building because I was
18 staying there, and when he called me to tell me that he was on
19 the way, I told him not to come get me, I wasn't going to
20 work. He said to take things easy, and I told him I wasn't
21 going to work anymore.

22 Q. You told him you weren't going to work anymore?

23 A. Yes.

24 Q. All right. At that time you were still selling on the
25 street on Burbank for Javi?

1 A. Yes.

2 Q. If you could -- Ms. Rand would you mind clearing his mark
3 for him? Thank you.

4 If we could show you Government's Exhibit 54. I
5 think you said Tapon was going to pick you up from Culver; is
6 that right?

7 A. Yes.

8 Q. And you said you were staying there?

9 A. Yes.

10 Q. Were you staying at the same apartment on Culver that the
11 organization was using for the bagging up of the drugs?

12 A. Yes.

13 Q. How did that come about?

14 A. I had an argument with my kid's mother and I was staying
15 at her house. She hit me with a phone in my eyebrow and crack
16 it. And I left. I left her house and Javi said that I could
17 stay there.

18 Q. All right. How long did you stay at the Culver Road
19 apartment?

20 A. Honestly, maybe like three months, four months. I'm not
21 sure.

22 Q. Okay. Did you have a key for it?

23 A. Yes.

24 Q. And Javi gave you a key and let you stay there as a result
25 of what happened with your child's mother?

1 A. Yes.

2 Q. Before that did you ever have keys to any of the other
3 stash apartments?

4 A. No.

5 Q. You didn't have a key to the general apartment?

6 A. No.

7 Q. Or the apartment on Liberty Pole Way that was used to work
8 the table?

9 A. No.

10 Q. Or East Main? The apartment on East Main?

11 A. No.

12 Q. Who had keys to those apartments?

13 A. Obed sometimes had the key; Pistolita sometimes had the
14 key; and Robert mostly had the key; and Javi -- Javi always
15 had the key.

16 Q. All right. At the time you told Tapon you weren't gonna
17 work anymore, was Obed still working for Javi?

18 A. Yes.

19 Q. Did there come a time when that changed?

20 A. Yes.

21 Q. Can you tell us about that?

22 A. Because Obed had got arrested again on Burbank with a four
23 track, he was running a small four track on the street. The
24 police told him to stop, he tried to run away and the police
25 arrested him. Javi told him that he wasn't gonna pay for the

1 lawyer or anything.

2 Q. When you say "four track," are you talking about a
3 four-wheeler?

4 A. Yes.

5 Q. So Javi wouldn't pay for Obed after he got arrested on a
6 four-wheeler?

7 A. Yes, because he couldn't be getting any other additional
8 cases or trouble since he was on bond.

9 Q. What did Obed tell you about that? After that happened
10 what did Obed tell you?

11 A. He called me once crying saying that Javi wasn't going to
12 pay his lawyer or anything, that I knew everything that we had
13 done for him, so that now will just say that he wasn't going
14 to be paying for the lawyer and that he knew where Javi had
15 all the money saved in his mother's house and that he wanted
16 to -- he could just steal from Javi.

17 I always told him that it was -- it was, you know,
18 like his friend and like a little brother to him, not to do
19 that because if he did that, then he was going to be having
20 problems with Javi and that he was gonna put his family in
21 danger and maybe they could get his family killed or
22 something.

23 Q. So Obed called you upset that Javi wouldn't pay for his
24 lawyer?

25 A. Yes.

1 Q. And after all the things he and you had done for Javi?

2 A. Yes, because after everything, he wasn't going to be
3 paying for his lawyer.

4 Q. And you and Obed discussed stealing money from Javi?

5 A. Yes.

6 Q. From Javi's mother's house?

7 A. Yes.

8 Q. Did you know where Javi's mother lived?

9 A. Yes.

10 Q. Had you been to Javi's mother's house?

11 A. Yes.

12 Q. Let me show you what's in evidence as Government's 57. Do
13 you recognize what's shown in Government's 57?

14 A. Javi's mom's house.

15 Q. And was there drug activity going on at Javi's mother's
16 house shown here in Government's 57?

17 A. What do you mean drug activity? If they sold or
18 something?

19 Q. Yeah, was that a place where drugs were being sold from?

20 A. No.

21 Q. Was that a place where you ever worked the table?

22 A. No.

23 Q. What was kept at Javi's mother's house?

24 A. Javi's money.

25 Q. All right. So you talked Obed out of stealing money --

1 stealing Javi's money from his mother's house?

2 A. Yes.

3 Q. All right. And at this time you're not happy with Javi
4 either?

5 A. Yes.

6 Q. Did there come a time when you and Obed discussed doing
7 anything else, stealing anything else from Javi?

8 A. Yes.

9 Q. What did you and Obed discuss?

10 A. About stealing his drug from the apartment on Culver.

11 Q. And at the time you discussed that with Obed, were you
12 still living at that apartment?

13 A. No.

14 Q. You had already moved out?

15 A. Yes.

16 Q. Did you leave right after you told Tapon you weren't going
17 to work there any more?

18 A. Yes.

19 Q. All right. Why did you and Obed decide to steal drugs from
20 Javi's apartment on Culver?

21 A. Because we knew there was a lot of drugs there and we
22 could steal it and sell it.

23 Q. Did you think you'd get away with it?

24 A. Yes.

25 Q. You didn't think he would find out?

1 A. I knew he was going to find out.

2 Q. But you didn't care?

3 A. No.

4 Q. All right. Did there come a time when -- if we can show
5 you Government's 54. Did there come a time when you decided
6 you were going to break into the apartment here, Javi's stash
7 apartment on Culver?

8 A. Yes.

9 Q. And did you end up doing it?

10 A. Yes.

11 Q. Did you do it with Obed?

12 A. He went there, but didn't get up. He stayed -- he walked
13 with us, but didn't get to go up into the apartment or into
14 the property.

15 Q. So Obed was there, but he didn't -- he didn't go in?

16 A. No. When we were coming from Parsell, we arrived to a
17 street that it was like in the back of a building. And Obed
18 continued to walk to his house on Carson and me and a friend
19 just continued towards Culver.

20 Q. Who did you end up breaking into the apartment on Culver
21 with?

22 A. With Jose.

23 Q. Do you remember the date that you broke into it?

24 A. The what? I'm sorry.

25 Q. The date.

1 A. I think December 7th, 2016.

2 Q. And how do you know that's the date?

3 A. Because I got arrested the day after I stole it.

4 Q. Okay. All right. Mr. Aponte Camacho, I don't know if you
5 can see from where you are. Do you see this small thumb drive
6 I have in my hand here, this white and pink thumb drive?

7 A. Yes.

8 Q. Do you recall me at some point showing you video on this
9 thumb drive?

10 A. Yes.

11 Q. And was that video of you and Jose in one clip right
12 outside the apartment at the Culver Road building on the night
13 that you broke in?

14 A. Yes.

15 Q. Was there also a video showing you and Jose running from
16 the rear of the building after you had stolen things from the
17 stash apartment?

18 A. Yes.

19 Q. All right.

20 **MR. MARANGOLA:** At this time, Your Honor, I'd like
21 to -- I think we already received this subject to connection,
22 Government's 335. I'd like to, if I could, play the two clips
23 on it. We have uploaded those to the courtroom trial laptop.

24 **THE COURT:** Yes, 335 was received subject to
25 connection. It may be played.

1 **BY MR. MARANGOLA:**

2 Q. We're playing -- all right. First video we're showing has
3 the time stamp at the top of 12/7/2016, 5:02:20 a.m.

4 Mr. Aponte, do you recognize this location?

5 A. Yes.

6 Q. What is it?

7 A. That's the building where I stole the drug.

8 Q. On what street?

9 A. On Culver.

10 Q. All right. If we could play it?

11 (WHEREUPON, the video was played).

12 **BY MR. MARANGOLA:**

13 Q. All right. We just saw an individual on the left side of
14 the screen and then we have it paused here and there's another
15 individual whose face is observable on the right side of the
16 screen. Can you tell us do you recognize either of those two
17 people?

18 A. If I recognize the two people you said?

19 Q. Yeah, who are the two people in the video?

20 A. Me and Jose.

21 Q. Which one is you?

22 A. The one looking at the camera.

23 Q. Without your face covered?

24 A. Yes.

25 Q. All right. If we can keep playing?

1 (WHEREUPON, the video was played).

2 BY MR. MARANGOLA:

3 Q. The other person we saw, that was who?

4 A. Jose.

5 Q. All right. Then we can pause it here. And we'll go to
6 the next clip. Let's pause it for one second. Mr. Aponte,
7 for the record this clip is dated December 7th, 2016, 5:25:57
8 a.m. Do you recognize what's shown in this portion of the
9 camera -- of the video footage?

10 A. That's the back side of the building from where we stole
11 the drugs.

12 Q. That's the rear of the building -- that's from the rear of
13 the building looking toward the parking lot at Culver?

14 A. Yes.

15 Q. All right. If we could play that?

16 (WHEREUPON, the video was played).

17 BY MR. MARANGOLA:

18 Q. What are we seeing there at approximately 41 seconds into
19 the clip?

20 A. Me -- Jose and I running through the back.

21 Q. All right. And did you have anything -- were you carrying
22 anything?

23 A. Yes.

24 Q. What were you carrying?

25 A. The bags with the drugs we stole and the gun.

1 Q. All right. If we can stop it here and pull up Government's
2 54. All right, so we're clear, the video we just saw was from
3 this building shown in Government's 54?

4 A. Yes.

5 Q. And if we could show Government's 55. That's the parking
6 lot we just observed in the second video; is that right?

7 A. Yes.

8 Q. All right. When you went -- how did you actually get into
9 the apartment at Culver Road you and Jose? What did you do?

10 A. We went up through the emergency stairs, we broke the
11 window with a hammer.

12 Q. And when you went into the apartment what did you see?
13 What was in the apartment?

14 A. The bags with the drugs and like a big case, like a big
15 bag where the rifles were in it. There was like a paint
16 bucket, like yellow -- orange.

17 Q. All right. And the rifles that you saw in the apartment,
18 are those shown in Government's 295 that you -- some of those
19 shown in Government's 295 that you identified yesterday?

20 A. True, yes.

21 Q. The firearms that we have down here Government's 321, 323,
22 and 319, they were in the apartment?

23 A. Yes.

24 Q. All right. After you and Jose -- what did you take out of
25 there? You just told us what was in there. What did you take

1 out?

2 A. Heroin, two bags -- like one bag filled with heroin and
3 another bag with like a little bit less than half of heroin, a
4 whole bunch of heroin packages and cocaine packages that were
5 ready for sale, a weapon, and a weight.

6 Q. All right. You previously identified the firearm here
7 that's got the zip tie through it and is marked Government's
8 Exhibit 246; is that right?

9 A. Yes.

10 Q. And these exhibits here Government's 251, as well as 252,
11 were some of the other quantities of heroin that you took out
12 of that apartment; is that right?

13 A. Yes.

14 Q. Where did you and Jose go after you ran out of the back of
15 the apartment in that video with the heroin and the gun?

16 A. To Jose's house.

17 Q. All right. What happened -- what did you do with the
18 heroin and the gun at Jose's house?

19 A. Well, after that I took them to a friend of my house, the
20 same Parsell, then I went to my mom's house and when I went to
21 the building I saw a friend of mine who worked in the barber
22 shop with me, so I went to to the house with him on Miller
23 Street.

24 Q. Who is the friend you saw at your mom's house?

25 A. Menor.

1 Q. Menor. And you went to Menor's house on Miller Street?

2 A. Yes.

3 Q. What was -- did you tell Menor what you had?

4 A. Yes.

5 Q. What was your plan?

6 A. To go to another state and sell it.

7 Q. To go where?

8 A. To go to another state and sell it.

9 Q. Another state?

10 A. Yeah, like Florida.

11 Q. All right. So what place did Menor take you to?

12 A. On 54 Miller.

13 Q. All right. If we could show you Government's Exhibit --

14 what's not in evidence as Government's Exhibit 237. Do you

15 recognize, Mr. Aponte, what's shown in Government's 237?

16 A. Yes.

17 Q. And what is that?

18 A. The house where I went to with Menor.

19 Q. All right. And did you go to that -- that's the house you

20 went to the same day that you broke into the Culver apartment

21 building and stole the heroin and the gun?

22 A. Yes.

23 Q. All right. Did you stay there in that apartment that

24 night?

25 A. Yes.

1 Q. Was Menor with you that night?

2 A. At night he had left.

3 Q. All right. Was there another person in the house at 54
4 Miller that night, the night of December 7th into
5 December 8th?

6 A. Yes.

7 Q. And who was that?

8 A. We used to call him Gordo, I don't know his real name.

9 Q. Used to call him Gordo?

10 A. Yes.

11 Q. Okay. And you -- can you tell us what happened the next
12 morning on December 8th?

13 A. Menor arrived. I went to look through the door first, I
14 saw that he was getting parked in the driveway. I opened the
15 bedroom door so I could look through the window to make sure
16 nobody was following him. And Cabra, Tapon and Obed arrive
17 with guns. I went and I started shooting through the window
18 and then through the door.

19 Q. When you were shooting, what gun were you using to shoot?

20 A. The gun I stole from Culver.

21 Q. And were you inside or outside the -- I'm sorry, I didn't
22 offer this I think.

23 Judge, at this time I offer -- Mr. Aponte, does
24 Government's 237 fairly and accurately show the house that you
25 went to with Menor on the night of December 7th, 2016?

1 A. Yes.

2 Q. Does that show the location where you were arrested on
3 December 8th, 2016?

4 A. Yes.

5 Q. Does it show that house accurately as it existed on those
6 days?

7 A. Yes.

8 **MR. MARANGOLA:** At this time, Your Honor, I'd offer
9 Government's 237.

10 **MR. VERRILLO:** Based on the Court's prior ruling, I
11 have no objection to that.

12 **THE COURT:** Exhibit 237 will be received.

13 (**WHEREUPON**, Government Exhibit 237 was received
14 into evidence).

15 **THE COURT:** Ladies and gentlemen, at this time we're
16 going to take a recess. In the meantime, do not discuss the
17 matter or allow anybody to discuss the matter with you. The
18 jury may step down, we'll stand in recess.

19 (**WHEREUPON**, there was a pause in the proceeding).

20 (**WHEREUPON**, the defendant is present; the jury is
21 present).

22 **THE COURT:** You may continue.

23 **MR. MARANGOLA:** Thank you, Your Honor.

24 **BY MR. MARANGOLA:**

25 Q. Mr. Aponte Camacho, you were testifying about how you and

1 Jose broke into the stash apartment at Culver Road and then
2 you ended up at this house on Miller Street; is that right?

3 A. Yes.

4 Q. I'd like to show you what is not in evidence as
5 Government's 18. Do you recognize who is shown in
6 Government's 18?

7 A. Jose.

8 Q. Do you know Jose's last name?

9 A. Ubiles.

10 Q. All right. Is the person shown in Government's 18 the
11 Jose that you broke into the Culver Road stash apartment with
12 on December 7th, 2016?

13 A. Yes.

14 Q. And does that photograph fairly and accurately show Jose
15 Ubiles?

16 A. Yes.

17 **MR. MARANGOLA:** At this time I offer Government's
18 18.

19 **MR. VERRILLO:** Your Honor, based on the Court's
20 prior ruling, I have no further objection.

21 **THE COURT:** Exhibit 18 will be received.

22 (WHEREUPON, Government Exhibit 18 was received into
23 evidence).

24 **BY MR. MARANGOLA:**

25 Q. All right. If we can go to Government's -- can you put

1 that up for the jury, Ms. Rand? Thank you.

2 All right. And now if we could put up Government's
3 Exhibit 1. Mr. Aponte Camacho, you said that when you were at
4 the house on Miller Street the night before your arrest Menor
5 was not there, but there was another person you didn't know
6 his name, but I think you referred to him as Gordo?

7 A. Yes.

8 Q. Now, you previously testified that Gordo was a nickname
9 for Yankee. He's shown here in Government's Exhibit 1; is
10 that right?

11 A. Yes.

12 Q. Is the person that you were at 54 Miller Street and
13 referred to as Gordo the same or different person than Yankee
14 who you had previously identified in Government's Exhibit 1?

15 A. It was a different person.

16 Q. All right. And why did you call the person Gordo? What
17 does that word mean?

18 A. Like obese.

19 Q. Okay. All right. And before we pull up 54 Miller Street,
20 again while we have Government's Exhibit 1 here, on the
21 morning of your arrest December 8th, 2016, when you looked out
22 the window from 54 Miller Street who, if anyone, in
23 Government's Exhibit 1 did you see? And you touched in the
24 third row the person on the far left and the person on the far
25 right; is that correct?

1 A. Yes.

2 Q. And you previously identified the person on the far left
3 as who?

4 A. Obed, and Tapon.

5 Q. Tapon is the person on the far right?

6 A. Yes.

7 Q. All right. Who is the other individual that you saw
8 outside of 54 Miller Street on December 8th with Tapon and
9 Obed?

10 A. Cabra.

11 Q. C-A-B-R-A?

12 A. Yes.

13 Q. And he's not shown in Government's Exhibit 1; is that
14 right?

15 A. No.

16 Q. Now, when you saw Tapon and Obed and Cabra pull up to the
17 house at 54 Miller Street, you had with you a large quantity
18 of heroin and the gun that you had stolen from who?

19 A. From Culver.

20 Q. Whose was it?

21 A. Javi's.

22 Q. Person you previously identified in Government's Exhibit 1
23 as which photo?

24 A. The first one.

25 Q. All right. So when you saw Obed, Tapon and Cabra outside

1 of 54 Miller Street after having stolen Javi's heroin and gun,
2 what did you think?

3 A. That they were going to kill me.

4 Q. All right. And when you saw them and thought they were
5 going to kill you, why did you think they were coming to kill
6 you?

7 A. Because of all the drugs I stole.

8 Q. All right. If we can clear the marks -- thanks, Paula.

9 And show you -- go back to Government's 237. Now,
10 you were inside this house when you saw Tapon and Cabra and
11 Obed?

12 A. Yes.

13 Q. And you had the .40 caliber pistol?

14 A. Yes.

15 Q. And was the .40 caliber pistol loaded? Was it loaded?

16 A. Yes, I loaded it.

17 Q. Where did you get the bullets for it that you loaded into
18 it?

19 A. It already had bullets.

20 Q. All right. So the bullets were already in the gun when you
21 stole it?

22 A. Yes.

23 Q. And I think earlier in your testimony yesterday in
24 describing a gun being loaded you gestured the top -- you held
25 your one hand as a gun and then you moved your other hand

1 along the top of it. What was that in reference to?

2 A. It wasn't like putting bullets into the clip. The clip
3 was already in the gun. And you just moving the piece where
4 you pull it back so the bullet can be loaded into the gun.

5 Q. So you're talking about on the top of the gun sliding it
6 back and it pulls a bullet up into the chamber?

7 A. Yes.

8 Q. Like racking the gun?

9 A. Yes.

10 Q. Okay. All right. So you have this loaded .40 caliber
11 pistol with you on December 8th, 2016. And when you see Tapon
12 and Obed and Cabra, what do you decide to do?

13 A. To shoot through the window and through the door.

14 Q. I'm sorry, to shoot through the window and the door?

15 A. Yes.

16 Q. All right. Do you see the window that you shot through in
17 Government's Exhibit 237?

18 A. Yes.

19 Q. Can you circle it? All right, and you circled the window
20 on the bottom left of this photograph; is that right?

21 A. Yes.

22 Q. All right. Can you tell us what happened after you shot
23 out that -- out from inside that window toward Obed and Tapon
24 and Cabra? What happened?

25 A. Well, that's when Menor opened the door and he told me to

1 put on my shoes, that we have to leave. Those people were
2 asking if I was there.

3 Q. Who is those people?

4 A. The ones that had arrived: Cabra, Obed and Tapon.

5 Q. They were asking who if you were there?

6 A. To Menor. And Menor said they asked me if you were here.

7 Q. I thought Menor wasn't there that morning?

8 A. Yeah, I told him when I looked through the door, the part
9 through the driveway and when I looked through the window to
10 see if nobody was following him when he arrive, that's when
11 the other ones arrived.

12 Q. All right. So Menor arrived just before Tapon and Obed and
13 Cabra?

14 A. Yes.

15 Q. All right. Tell us what happened after that.

16 A. That's when I put on my shoes, I took the bag with the
17 drugs and I ran through the back door. Menor told me to jump
18 over the fence there. Then I was going to be coming out in
19 some parking lot around Goodman and that he was going to pick
20 me up there. I told him that they were going to kill me, and
21 if he ratted me out because nobody knew that I was there.

22 So I didn't know how they got there, how they knew
23 that I was there. I thought that he told them. So Menor went
24 through the front, I was going to leave through the back when
25 I saw him going through the front. I regretted that, so I

1 closed the door, I looked through the front window again and
2 Tapon and Cabra were getting in the car, Tapon was telling
3 Cabra to go ahead and get going because the cops were coming.

4 That's when the cops arrived. They started to
5 knock on the door, I took the backpack off and I threw it into
6 one of the rooms close by the living room, I took the gun,
7 cleaned it up, I clean up my prints from the gun and I put it
8 under a mattress.

9 Q. All right. So you thought Menor had set you up and that's
10 why -- that's how Cabra and Tapon and Obed knew where you
11 were?

12 A. Yes.

13 Q. That's why you didn't run out the back?

14 A. Yes.

15 Q. Did you end up striking anyone when you shot the firearm
16 from inside 254 -- I'm sorry, from 54 Miller?

17 A. Yes.

18 Q. Who did you hit?

19 A. Obed.

20 Q. Do you know where you hit him?

21 A. I didn't know at the time. Later on I find out that it
22 was around his stomach, they had to put like a bag, kind of
23 like -- to go to the bathroom, he had to use a bag.

24 Q. Did you -- Obed didn't die from the gunshot?

25 A. No.

1 Q. All right. So the police came into the house I assume?

2 A. Yes.

3 Q. And you were still inside?

4 A. Yes.

5 Q. Were you arrested and taken into custody?

6 A. Yes.

7 Q. And did the police seize the items that you stole from the
8 Culver Road stash apartment?

9 A. Yes.

10 Q. All right. I'm going to show you -- actually, before we
11 move off of this, if you could clear the marks, please. Thank
12 you.

13 We're going to enlarge Government's 237, a portion
14 of it here. Do you see the two holes next to the window
15 there?

16 A. Yes.

17 Q. Can you tell us what those are?

18 A. The holes from the bullets from when I shot through the
19 window.

20 Q. When you discharged the firearm from inside toward the
21 outside?

22 A. Yes.

23 Q. Okay. All right. If I can show you what is not in
24 evidence starting with Government's 238. I'm going to ask you
25 to look at several photos. You see 238?

1 A. Yes.

2 Q. 239?

3 A. Yes.

4 Q. 240?

5 A. Yes.

6 Q. 241?

7 A. Yes.

8 Q. 242?

9 A. Yes.

10 Q. 243?

11 A. Yes.

12 Q. And 244?

13 A. Yes.

14 Q. Do you recognize what's shown in those exhibits?

15 A. Yes.

16 Q. Do those photographs show the inside of 54 Miller Street
17 from the day of your arrest?

18 A. Yes.

19 Q. And do they also show some of the items that you stole
20 from the Culver Road stash apartment that were inside 54
21 Miller Street on the day of your arrest December 8th, 2016?

22 A. Yes.

23 Q. So those photographs fairly and accurately show those
24 items that you stole from the Culver Road stash apartment?

25 A. Yes.

1 **MR. MARANGOLA:** Your Honor, at this time I'd offer
2 Government's 238 through and including 244.

3 **MR. VERRILLO:** Based on the Court's prior ruling, I
4 have no further objection.

5 **THE COURT:** Exhibit 238, 239, 240, 241, 242, 243 and
6 244 will be received.

7 (**WHEREUPON**, Government Exhibits 238-244 were
8 received into evidence).

9 **BY MR. MARANGOLA:**

10 Q. All right. We have up on the monitor Government's 238. Do
11 you recognize what we're looking at in 238?

12 A. Yes.

13 Q. And what is that?

14 A. The gun I stole from Culver.

15 Q. Is that gun on the floor inside the Miller Street
16 apartment that you were arrested in?

17 A. Yes.

18 Q. And if we can show you Government's 239. Is that a
19 close-up of the same firearm?

20 A. Yes.

21 Q. And that's the firearm that you discharged out from inside
22 54 Miller twice?

23 A. Yes.

24 Q. Do you know actually how many times you fired the weapon?

25 A. Yes.

1 Q. How many?

2 A. Eight times.

3 Q. Eight times?

4 A. Yes.

5 Q. Okay. And I think we talked about this previously, but
6 Government's Exhibit 246, is this the firearm that we're
7 looking at here in Government's 239?

8 A. Yes.

9 Q. Now, if we go back to 238, there's no mattress on the
10 floor here inside 54 Miller Street; is that right? In this
11 photograph?

12 A. Yes.

13 Q. Is this photograph taken after the mattress had been
14 removed from the gun?

15 A. Yes.

16 Q. Because you had said you put the gun under a mattress; is
17 that right?

18 A. Yes, if I told you?

19 Q. Yes.

20 A. Yes.

21 Q. Okay. All right. If we can go to 240. What are we looking
22 at in Government's 240?

23 A. The bag where I put the drugs.

24 Q. All right. And if we can go to Government's 241. What are
25 we looking at in Government's 241?

1 A. The drug I stole and the bag.

2 Q. And all those drugs were stolen from where?

3 A. From Culver.

4 Q. If we could go to Government's 242. What are we looking
5 at here?

6 A. The drug I stole, the packages that was ready to be sold
7 that I stole from Culver.

8 Q. All right. 243. What are we looking at in Government's
9 243?

10 A. The packages I stole from Culver and the big bag of
11 heroin.

12 Q. Can you touch the screen to show us which is the big bag
13 of heroin? All right, and you've made two circles on there.
14 One is a larger circle on the bag containing the tan powder on
15 the right side of the photograph; is that right?

16 A. Yes.

17 Q. And then you made a small circle showing the corner of a
18 bag at the top center of this photograph; is that right?

19 A. Yes.

20 Q. Is that the corner of another large bag of heroin that you
21 stole?

22 A. Yes.

23 Q. All right. If we could go to -- clear those marks and go
24 to 244, please. What do you recognize in Government's 244?

25 A. The big bag of heroin that I stole from Culver.

1 Q. All right. Anything else in that photograph?

2 A. And the packages that were ready to be sold that I stole
3 from Culver.

4 Q. All right. Do you see the small white bags in the bottom
5 left of that photograph?

6 A. Yes.

7 Q. Do you recognize those?

8 A. Yes.

9 Q. What do you recognize those to be?

10 A. Bags of cocaine.

11 Q. That are already packaged for sale?

12 A. Yes.

13 Q. All right. All right, Mr. Aponte Camacho, was Government's
14 251, the bag here in my hand, is that the item shown in
15 Government's 244 on your monitor?

16 A. Yes.

17 **MR. MARANGOLA:** All right. I believe Your Honor
18 received Government's 251 and 252 into evidence already.

19 **THE COURT:** I don't have that -- it was received,
20 yes.

21 **MR. MARANGOLA:** 251 and 252, Judge?

22 **THE COURT:** Yes.

23 **BY MR. MARANGOLA:**

24 Q. All right, Mr. Aponte, I have Government's 252. If I
25 could place a portion of this on the visualizer.

1 **THE COURT:** Sure.

2 **BY MR. MARANGOLA:**

3 Q. I removed one of the plastic bags from Government's 252
4 and I'm placing it on the visualizer. Can you see that on
5 your monitor?

6 A. Yes.

7 Q. Now, this plastic bag here that I'm holding the tip, the
8 clear plastic bag, do you recognize those type of bags from
9 when you bagged up quantities of drugs at Culver Road?

10 A. Yes.

11 Q. And what would be in these types of bags?

12 A. Ten bundles, ten of the little bags, the black bags.

13 Q. So there would be ten of the black bags in one of these?

14 A. Yes.

15 Q. And how many bags would be in the individual black bags?

16 A. Ten of the blue little bags inside of one of the black
17 bags.

18 Q. All right. I'll try to get -- can you read -- I'm not sure
19 if you can make it out, can you read the stamp on there?

20 A. Yes.

21 Q. What is it?

22 A. Blue magic.

23 Q. All right. Placing that back in Government's 252. From
24 the portion of the stipulation on page 5, Your Honor, with
25 regard to Government's 252, I'll read.

1 It says Government's Exhibit 252 also contains 1006
2 blue glassine bags stamped blue magic with tan powder
3 containing heroin.

4 The aggregate weight of the heroin is approximately
5 67.80 grams.

6 Mr. Aponte Camacho, the blue magic stamp you saw on
7 the visualizer that I just show showed you from the bag you
8 stole from Culver is the same or different blue magic stamp
9 that I showed you earlier that was in the drugs that were
10 seized from -- when Obed was arrested?

11 A. The same one.

12 Q. All right.

13 **MR. MARANGOLA:** Your Honor, I'm going to read from
14 the stipulation with regard to Government's Exhibit 250, 253
15 and 254. And I'll place Government's Exhibit 253 on the
16 visualizer. Actually, I guess I --

17 **THE COURT:** Hasn't been received yet.

18 **MR. MARANGOLA:** All right, I'll read first with
19 respect to Government's 250. Government Exhibit 250 is a
20 sealed plastic bag with tan powder containing heroin that was
21 seized from 54 Miller Street on December 8th, 2016.

22 The aggregate weight of the heroin is approximately
23 299.14 grams.

24 I'll read from the stipulation with regard to
25 Government's Exhibit 254. Government Exhibit 254 was seized

1 from 54 Miller Street on December 8th, 2016 contains a sealed
2 plastic bag containing a plastic bag with gray residue on the
3 outside holding the following: A plastic bag with brown
4 rock-like material containing heroin with an aggregate weight
5 of approximately 0.673 grams.

6 A glassine bag marked with black helmets with tan
7 powder containing heroin with an aggregate weight of 0.023
8 grams.

9 A plastic bag marked with black spades with tan
10 powder containing heroin with an aggregate weight of
11 approximately 0.149 grams.

12 A black plastic bag marked with crowns with tan
13 powder containing heroin with an aggregate weight of
14 approximately 0.022 grams.

15 A plastic bag marked with black spades with white
16 powder containing cocaine with an aggregate of approximately
17 0.031 grams.

18 Three plastic bags marked with crowns with white
19 powder containing cocaine with an aggregate weight of
20 approximately 0.017 grams.

21 A clear plastic bag with tan powder containing
22 heroin with an aggregate weight of approximately 0.030 grams.

23 A plastic bag marked with black spades with white
24 powder containing cocaine with an aggregate weight of
25 approximately 0.043 grams.

1 136 clear plastic bags with tan powder containing
2 heroin and 66 plastic bags marked with crowns with tan powder
3 containing heroin; the aggregate weight of the heroin is
4 approximately 5.532 grams.

5 152 clear plastic bags with tan powder containing
6 heroin and 48 plastic bags marked with crowns with tan powder
7 containing heroin; the aggregate weight of the heroin is
8 approximately an aggregate weight of approximately 5.204
9 grams.

10 131 plastic bags marked with crowns with tan powder
11 containing heroin with an aggregate weight of approximately
12 3.144 grams.

13 And, finally, I'll read from the stipulation with
14 regard to Exhibit 253 from the stipulation between the
15 parties.

16 Government Exhibit 253 was seized from 54 Miller
17 Street on December 8th, 2016. Government Exhibit 253 contains
18 a sealed plastic bag with white powder containing cocaine and
19 299 plastic bags described as follows: One clear plastic bag;
20 one plastic bag marked with green dollar bill logos; 22
21 plastic bags marked with orange logos; 46 plastic bags marked
22 with black eight balls; and 229 purple plastic bags; the
23 aggregate weight of the cocaine is approximately 53.82 grams.

24 At this time, Your Honor, I would offer
25 Government's 253, 254 and 250.

1 **MR. VERRILLO:** Based on the Court's prior ruling, I
2 have no further objections.

3 **THE COURT:** Exhibit 250, 253, and 254 will be
4 received.

5 (**WHEREUPON,** Government Exhibits 250, 253, 254 were
6 received into evidence).

7 **MR. MARANGOLA:** If I could show the jury now, Your
8 Honor, Government's 253?

9 **THE COURT:** Yes.

10 **BY MR. MARANGOLA:**

11 Q. This is Exhibit 253. Mr. Aponte, do you recognize the
12 bags contained in Government's 253? Are you able to see
13 those?

14 A. Yes.

15 Q. And what do you recognize those bags to be?

16 A. Little bags of cocaine ready to be sold that I stole from
17 Culver.

18 Q. All right. Now, Mr. Aponte, this exhibit here,
19 Government's Exhibit 251, over the kilogram of cocaine, was
20 this the kind of quantities of cocaine that you observed in
21 the stash apartments where you worked the table as a member of
22 Javi's drug organization?

23 A. Yes.

24 Q. And was this the kind of quantity that you observed at the
25 hospital apartment?

1 A. Yes.

2 Q. And the Main Street apartment?

3 A. Yes.

4 Q. And the Liberty Pole apartment?

5 A. Yes.

6 Q. As well as the Culver Road apartment?

7 A. Yes.

8 Q. And were those quantities at those apartments present when
9 you worked the table with the defendant?

10 A. Yes.

11 Q. And I'm holding from Government's Exhibit 252 a plastic
12 bag with the numerous black plastic bags containing the blue
13 magic envelopes in them. Were these the kinds of bags that
14 you bagged heroin with at the apartments by the general
15 hospital?

16 A. Yes.

17 Q. And the Main Street apartment?

18 A. Yes.

19 Q. And the Liberty Pole apartment?

20 A. Yes.

21 Q. And the Culver Road apartment?

22 A. Yes.

23 Q. And did you do that with the defendant?

24 A. Yes.

25 **MR. MARANGOLA:** Thank you, Mr. Aponte Camacho.

1 **THE COURT:** Mr. Verrillo.

2 **CROSS-EXAMINATION**

3 **BY MR. VERRILLO:**

4 Q. Mr. Aponte Camacho, were you arrested on December 8th,
5 2016?

6 A. Yes.

7 Q. And you were charged with one kilo or more of heroin?

8 A. Yes.

9 Q. And you were charged with -- and were you charged with
10 possession of a firearm?

11 A. Yes. And possession and the firing and discharging a
12 firearm.

13 Q. Okay. And as a part -- did you enter into a cooperation
14 agreement with the Government?

15 A. Yes.

16 Q. Are you seeking benefits for testifying?

17 A. Yes.

18 Q. And as a result of your plea agreement, are you -- were
19 you facing 20 years as a mandatory minimum sentence?

20 A. How many years?

21 Q. 20 years.

22 A. 20 to life.

23 Q. Okay. And you would like a lesser sentence, correct?

24 A. Yes. To have a lighter sentence?

25 Q. Yes.

1 A. Yes.

2 Q. And how much time are you seeking?

3 A. The least I could get. That's what I would hope.

4 Q. Prior to your testimony in this case, have you testified
5 in court for the Government?

6 A. I testified here on the previous trial and I also
7 testified in the grand jury.

8 Q. How many days did you testify in the previous trial?

9 A. I think four days.

10 Q. And how many days did you testify in the grand jury?

11 A. One day.

12 Q. Prior to today how many times have you talked to the
13 Government about your case?

14 A. Before today?

15 Q. Yes.

16 A. You mean all the times that I met with the Government from
17 2016 -- '17?

18 Q. Yes.

19 A. Like maybe 50 times. I'm not sure.

20 Q. When did you first talk to the Government about the case?

21 A. About this case you mean?

22 Q. Yes.

23 A. I think beginning of 2017.

24 Q. Okay. So that was in January of 2017?

25 A. If I'm not wrong, yes.

1 Q. Okay. And of the -- strike that.

2 And when you have met with the Government, do you
3 know if the representatives had been taking notes of your
4 meetings?

5 A. If they were taking notes?

6 Q. Yes.

7 A. If they were writing like in a pad or something what I
8 said?

9 Q. Yes.

10 A. Yes.

11 Q. Okay. And have you reviewed any of their notes of your
12 interviews prior to today?

13 A. What do you mean by to review?

14 Q. Have you read any of the notes that were taken of your
15 prior interviews with the Government?

16 A. Of what it's called proffer? Not that I remember.

17 Q. And have you reviewed any of your transcripts from your
18 prior trial testimony prior to today?

19 A. From the previous trial, yes.

20 Q. Okay. Now, with respect to your testimony in this case,
21 how many times have you met with the Government?

22 A. I think like five times maybe.

23 Q. And when was the first time you met with the Government
24 concerning this case?

25 A. I don't remember.

1 Q. Okay. When was the last time you met with the Government
2 regarding your testimony in this case?

3 A. Yesterday.

4 Q. And who did you meet with yesterday?

5 A. With the D.A. and the federal agents.

6 Q. Which federal agent was that?

7 A. I think they're ATF.

8 Q. Okay. Do you know the agent's name?

9 A. Joe and Patrick.

10 Q. And what time yesterday did you meet with them?

11 A. I'm not sure what time it was.

12 Q. Was it after your testimony yesterday?

13 A. Yes.

14 Q. Okay. And how long did you meet with them?

15 A. I'm not sure how long.

16 Q. Was it more than an hour?

17 A. No, I don't think so.

18 Q. Okay. Mr. Aponte Camacho, is this the first time you've
19 been in jail?

20 A. I had been in jail for breaking the windows and damaging
21 the tires to my mother-in-law.

22 Q. Okay. And you've been in jail since December 8th, 2016 on
23 this case, correct?

24 A. In my case, yes.

25 Q. Yes. Okay. When did you first meet Pistolita?

1 A. 2015.

2 Q. Do you remember what month that was?

3 A. I think around May.

4 Q. Okay. And it's your testimony that you've had contact with
5 Pistolita from May of 2015 until when?

6 A. I think up until the end of summer of 2016.

7 Q. So that would be approximately August of 2016?

8 A. I think so.

9 Q. And how often would you see Pistolita during that time
10 period?

11 A. Almost every day. There were days I wouldn't see him,
12 there were times I would not see him for like three days.

13 Q. Do you know whether Pistolita used drugs?

14 A. I have heard that he used drugs.

15 Q. Okay. And who did you hear that from?

16 A. Javi and from himself.

17 Q. You had heard that from Pistolita?

18 A. Yes.

19 Q. And what drug or drugs did he say he used?

20 A. Heroin.

21 Q. Okay. Did you smoke marijuana?

22 A. Yes.

23 Q. And how often did you do that -- I'm sorry.

24 A. Almost every day, but there were days that -- there were
25 times I would not smoke for months and then I will start

1 smoking again every day.

2 Q. Okay. Did you ever visit Pistolita's residence?

3 **THE INTERPRETER:** I'm sorry, the interpreter
4 requests a repetition.

5 **BY MR. VERRILLO:**

6 Q. Did you ever visit Pistolita's residence?

7 A. You mean his house?

8 Q. Yes.

9 A. No, I went there once and with Obed to Buffalo. I think
10 it was his grandmother's house. I'm not sure whose house was
11 it.

12 Q. Okay. Okay. When I was asking residence, I was asking did
13 you ever visit with Pistolita at his residence on Burbank
14 Street?

15 A. No.

16 Q. Did you know the name of his girlfriend?

17 A. One of them. I think her name was Yiomara.

18 Q. Okay. And did you know whether he had any children?

19 A. I think he had children with one called Yiomara. I'm not
20 sure.

21 Q. Okay.

22 **MR. VERRILLO:** Your Honor, if we could have a
23 sidebar?

24 **THE COURT:** Sure.

25 (**WHEREUPON**, a discussion was held at side bar out

2 **MR. VERRILLO:** I was going to go into a new area. I
3 had to leave at 11:30. I wanted to make the Court aware if we
4 could wrap up.

6 | (WHEREUPON, side bar discussion concluded.)

14 (WHEREUPON, proceedings adjourned at 11:33 a.m.)

15			*	*	*
----	--	--	---	---	---

17

23

25 | Christi A. Macri, FAPR-RMR-CRR-CSR(CA/NY)
Official Court Reporter